INFORMATION LETTER

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OPA WITHDRAWS ALL USE OF AMA GRADES IN PRICING BY ISSUANCE OF AMENDMENT TO SUPPLEMENT 7, FPR 1

Action Taken to Conform to Ruling by the Comptroller General

On August 5, 1944, Price Administrator Chester Bowles issued an amendment eliminating the provisions in Supplement 7 to Food Products Regulation 1 relating to AMA grades. Supplement 7 was mailed by the Association to all canners on August 5th. The formal amendment to it is printed in full on page 8342. The OPA action, which has the effect of defining "grade solely in terms of the established grade as commercially understood", was taken to conform to a decision by Comptroller General Lindsay C. Warren issued on August 2, 1944.

Concurrent with the issuance of the amendment, the Price Administrator issued a Statement of Considerations which recited that—

"The provision on grade appearing in the [original] Supplement was included for reasons appearing in the statement of considerations accompanying it. The Administrator believed, and still believes, that its use is permissible under the Second Deficiency Appropriation Act and that it would contribute materially to the enforceability of the regulation. Because the subject has been an extremely controversial one, the Comptroller General was consulted and requested to review the action of this office under the Emergency Price Control Act of 1942, as amended, the Stabilization Act of 1942, as amended, and the Second Deficiency Appropriation Act, 1944. The Comptroller General has now reviewed the action of the Price Administrator and has construed the appropriation act as precluding any and every use of the U. S. standards for fixing maximum prices in connection with processed fruits and vegetables."

Commenting further on his action, Mr. Bowles, in an accompanying press release, stated—

"We were determined to use every legal means at our disposal to assure the housewife that she was getting what she paid for at the store. We believed that the limited use of AMA grades which we made was permissible under the Congressional appropriation rider. We knew that it would greatly aid our enforcement efforts.

"Because of the highly controversial nature of the subject, we asked the Comptroller General to review our decision. Our change in the regulation is made necessary by his ruling, which, of course, we accept and will carry out to the best of our ability.

"It is apparent that our enforcement job will be harder, but we propose to use our utmost efforts to secure compliance in this difficult field.

"There is nothing in the changed regulation which has any direct effect on prices. The legal ceiling prices of the canned fruits and vegetables affected are based on existing commercial grades. The prevention of hidden price increases through up-grading is more difficult. The canning industry has a heavy responsibility to see to it that up-grading does not take place.

"The more self-policing the industry does, the less need will there be for enforcement action by OPA.

"We propose, however, to use our utmost efforts to secure compliance in the difficult field."

It will be recalled that on July 24th OPA issued a statement of its policy with respect to the use of standards or

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Care Urged in Executing Subsidy Contract Forms

Officials of the War Food Administration have advised the Association that some canners are returning the Subsidy Agreement incompletely filled out and without the necessary supplementary information. In order to avoid delays in handling the agreement canners are requested to—

1. Fill in the appropriate spaces both in the first paragraph before "WITNESSETH" and the middle of third column on page 3.

2. Submit letter with the agreement giving location of each factory and the products that the canner expects to can at each plant from the designated vegetables.

3. Make *no* changes in the agreement or Table I.

In view of the fact that the subsidy agreement is not being understood by some canners, the following summary is given to supplement the discussions

(Continued on page 8343)

WPB Order L-317 on Fibre Shipping Containers Is Amended

Users of fibre shipping containers may now compute their quarterly quotas on the basis of 25 per cent of the base year or 100 per cent of usage in the corresponding quarter of the base year, according to War Production Board Order L-317 as amended August 4.

Quotas for a number of food items are listed separately in Schedule III. Canned dried beans, with or without pork, have been added to the list and given a usage quota for new fibre shipping containers of 45 per cent of the 1941 usage.

Food items not listed separately are included under "All Other Foods."

The base year of "All other foods" was changed from 1943 to 1942 but with the same usage quota of 85 per cent, and was amended to read as follows:

"All other foods, except fishery products, dairy products, meat and meat products (which are controlled by Schedule IV), poultry, eggs and fresh fruits and vegetables (that is, fruits and vegetables not previously preserved) which are packed in a container and are preserved by the medium of heat or freezing."

"All Other Foods" covers those fruit and vegetable items that have been previously exposed to some type of preservation such as brining, pickling, or cold storage before being packed in containers. Pickles fall into this category, except pickles that are prepared and canned with heat directly from fresh cucumbers such as "Fresh Cucumber Pickles."

Any product packed in season from fresh fruits and vegetables in containers and preserved by the medium of heat or freezing is excluded from "All Other Foods," and therefore no limitation is placed on the use of new fibre shipping containers. Boxes for fishery products including fish are likewise unrestricted.

OPA WITHDRAWS AMA GRADES

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grades in pricing the 1944 pack of fruits and vegetables. It was announced that "grade" would be defined to mean the established grade as commercially understood, but that the Price Administrator would make a finding that "the most accurate and complete description" of the established commercial grade was the AMA grade and that the AMA grades would therefore be used in enforcement, except that the presumptive finding of the Administrator could be controverted in any enforcement proceeding if the processor showed that the AMA standard was different "in some material respect" from the generally understood commercial grade. See INFORMATION LETTER 995, July 22, pp. 8319, 8327.

The formal regulation, Supplement 7 to FPR 1, issued and effective July 31, 1944, dealt in Section 11 with grades and invoices and set forth in legal form the presumptive finding of similarity, and the accompanying Statement of Considerations repeated precisely the earlier announcement. The new amendment to Section 11 of that Supplement, which now removes all references to AMA grades, is made retroactively effective as of July 31, 1944.

OPA Request for Ruling

The text of the decision of the Comptroller General of the United States is now available. From this it appears that the OPA had originally asked the Comptroller General to rule that the AMA grades were "in general use" within the meaning of the proviso in the Appropriation Act prohibiting the payment of salaries or expenses of any person fixing maximum prices based on standards which were not, prior to such order, in general use. The principal portions of the Comptroller General's opinion are set forth below:

Pursuant to informal request from your office [Office of Price Administration] the decision upon the question submitted was withheld pending the preparation of a supplementary letter, which was received July 21, and which reads as follows:

"On July 14 [13], 1944, I submitted for your consideration the question raised by the proviso in the 1944 OPA appropriation (Second Deficiency Appropriation Act, 1944, approved June 28, 1944) relating to the use of standards or specifications in fixing maximum prices for processed fruits and vegetables, and asked you to review the Administrator's ruling that the U. S. standards for grades of processed fruits and vegetables published by the Department of Agriculture are 'in general use' within the meaning of that proviso.

"As the letter pointed out, the U. S. standards have been developed by the Department of Agriculture with the purpose of stating in writing, with the utmost possible exactness, the existing commercial understanding of the various grades, and there is substantial identity between the written specifications and the commercial understanding. The letter, however, did not rest the Administrator's finding that the U. S. standards have been in general use on the ground that those standards constitute the written expression of the commercial standards which have been in not only general but universal use. The Administrator's finding was instead rested primarily on the ground that the written specifications as such have been in general use. The letter detailed at length the extent of that use.

"The reason for withholding a finding of complete identity between the written specifications and the commercial understanding was the long history of controversy with respect to various points of detail and the inability of this office, within the time available, to gather all the data bearing upon each of the asserted differences and reach a definitive conclusion. Since the letter was written, intensive study has been devoted to working out a means of overcoming this difficulty so as to permit the U. S. standards to be relied upon squarely as a written expression of the commercial understanding of the various established grades.

"We believe that this effort has been successful. A draft of a section defining the meaning of the grades as used in the forthcoming regulation so as to accomplish this result has been prepared. While this draft is not in all respects final, it is sufficiently close to final form to present the issue accurately for your review. The draft follows:

> [At this point there was set forth in the OPA's request for ruling the first paragraph of subparagraph (a) and all of subparagraph (b) of Section 11 of Supplement 7, as later issued on July 31, 1944. In other words, OPA presented for ruling what it finally put in Supplement 7, except for the provisions relating to "subgrades." The Comptroller General's opinion continued with its quotation of the OPA's request for ruling.]

"You will observe that the concluding proviso leaves open the possibility that differences may exist in certain particulars between the U. S. standards for a given grade and the commercial understanding of that grade and provides that, in the event such differences appear and are material, the commercial understanding shall prevail. This eliminates the necessity for a finding of complete identity between the written specifications and the commercial understanding. For the finding actually made, that the written specifications constitute the most accurate and complete description available of the grade as commercially understood, there is ample support. This finding permits the use of the U. S. standards for enforcement purposes as an initial basis for establishing a case of upgrading and as a sufficient basis unless further evidence is brought forward to show that the goods sold met the requirements of the claimed grade as commercially understood. The office doubts the existence of material disparities between the U. S. standards and the commercial understanding, and in any event is satisfied that the questions arising under the proviso will not be such as to impair the usefulness of the U. S. standards as a definite basis for determining compliance in the overwhelming majority of instances.

"I wish to emphasize that our conclusion that this method of dealing with the problem is a practicable one and should be adopted in no way implies any doubt as to the correctness of the finding earlier made that the U. S. standards as such—that is, the written specifications—have been in general use. The present basis of action, however, removes any occasion for distinguishing—for the purposes of a finding as to 'general use'—between the U. S. standards and the established commercial standards of which they are the written expression. It thus eliminates any ground for question that the standards being employed are in general use with a conclusiveness that would not be possible if the U. S. standards were treated, for the purposes of the finding, as distinct from the commercial standards.

"The change in the plan for the forthcoming regulation which this letter describes makes it unnecessary for you to review the finding set forth in my letter of July 14, [13], 1944, that the U. S. standards, separately regarded, have been in general use. I will appreciate, however, your confirmation of my conclusion that the revised plan as explained in this letter is consistent with the appropriation proviso."

Comptroller General's Summary

Stated briefly, the background of the matter, so far as necessary for the present purpose, is understood to be as follows:

Two systems of grading the quality of canned foods have been in existence for some time, the one, purely commercial in origin, being the basis upon which the greater number of private sales of canned goods at wholesale are made, and the other having originated in the Department of Agriculture at least as far back as 1927. The former is known as the commercial system and under it all goods above the substandard level are classified largely according to quality in one of three grades, which are termed, Fancy, Extra Standard (or "Choice") and Standard. Within those grades, minor variations in quality are recognized and described by such terms as Top Standard, Near Fancy and so on. The differences in

the three grades are said to be well understood within the industry but, with certain exceptions (comprising mainly the pack of canned fruits in one particular area), the commercial grades are not defined or specifically reduced in writing by the industry or elsewhere. Questions arising in commercial sales are settled by arbitration through boards which have been established for some years in each of the principal markets of the United States, the members of which are appointed by the two wholesale grocers associations and the National Food Brokers Association.

The second system utilizes what are variously termed U. S. grades, AMA grades, or AMS grades, which were formulated by the Department of Agriculture, under authority contained in the annual appropriation acts, to establish a definite, objective and specific grading system for loan purposes and for voluntary use by the industry. The AMA grades A, B, and C correspond to, and correlate closely with, the three basic commercial grades. The AMA standards are, of course, in writing, and utilize a scoring system under which a determined number of points is given for each of the various factors deemed to affect quality, the total of such score indicating the grade in which the product is rated. The grading is done by official inspectors of the Department of Agriculture, who are made available as required and, in the case of some plants, are called upon to perform a continuous inspection service at the expense of the canner as a result of which the product is authorized appropriately to be labeled to the effect that the contents have been passed under Federal inspection. At least one large distributor has adopted the AMA standards practically throughout.

The Federal Specifications under which canned goods are purchased by the Procurement Division of the Treasury Department for the use of the government establishments generally appear to have adopted by reference the AMA specifications with, however, the significant difference that the requirement of a specific numerical score does not seem to be utilized. For most, but not all, practical purposes, it is reported the purchases for the Army follow the same plan. Thus, the AMA grades or other government specifications adapted therefrom are in fact utilized for approximately half of the total pack of canned goods, although their use for strictly commercial sales, it appears to be agreed, distinctly is in the minority.

The background of the item quoted from the current appropriation act requires reference to the basic statute authorizing price regulation. On July 16, 1943, by Public Law 151, 57 Stat. 566, a new sub-section, known as the "Taft Amendment," was added to the Emergency Price Control Act of 1942, as follows:

"(j) Nothing in this Act shall be construed (1) as authorizing the elimination or any restriction of the use of trade and brand names; (2) as authorizing the Administrator to require the grade labeling of any commodity; (3) as authorizing the Administrator to standardize any commodity, unless the Administrator shall determine, with respect to such standardization, that no practicable alternative exists for securing effective price control with respect to such commodity; or (4) as authorizing any order of the Administrator fixing maximum prices for different kinds, classes, or types of a commodity which are described in terms of specifications or standards, unless such specifications or standards were, prior to such order, in general use in the trade or industry affected, or have previously been promulgated and their use lawfully required by another Government agency."

At that time a price regulation (MPR 306) was in effect, which, as to about ten fruit and vegetable products, utilized the AMA grades, incorporating their definition by reference. There were established flat maximum prices by product, grade, and area, without differential among individual canners. "Flat pricing" was found to be objectionable to the industry and some time later a new plan was projected for the present year under which the price ceiling for each canner would be determined individually by reference to the prices charged for the same grade of the same goods in a base year (1941), upon which figures certain adjustments were provided on account of higher costs since that year and other factors. It is to provide a standard to be used for making that comparison and for the price classifying of current products for sale that there is needed a definite and practical grading system; and the immediate question is whether the system to be adopted, as explained in your letter, reasonably meets the requirement in the recent appropriation act with respect to the use of specifications or standards which were "in general use" prior to the issuance of the price fixing order.

The "Taft amendment" above quoted had been added to the basic price control act, the reenactment of which in the recent extension of that act (Public Law 383 of June 30, 1944) has the effect of permitting, as to commodities generally, and in certain circumstances, the adoption of standards not in general use. However, as to processed foods and vegetables only, the proviso contained in the appropriation act approved two days earlier prohibits the expenditure of funds for fixing maximum prices of products described in terms of specifications or standards unless such specifications or standards were in general use prior to the price fixing order. The intended effect of that marked difference in result is open to question, and a brief statement of its legislative history is indicated.

The first evident record of the matter in question appears in the published hearings of the House Subcommittee on Appropriations (page 306, *et seq.*), where question was raised as "to the use by OPA of government grades of quality in connection with the pricing of canned goods . . . under the technical name of AMA grades." The Deputy Administrator for Price appeared as a witness and explained the plan to use AMA grades wherever possible as a basis for computing allowable price ranges. Thereupon the following discussion is reported:

"MR. TABER. Well, those grades, Mr. Brownlee, are not in general use in the trade. Are they not used by not over 5 per cent of the canners?

"MR. BROWNLEE. That is right, sir.

"MR. TABER. They are simply grades that have been established by the AMA, and they did not go so far as to become grades that were in general use in the trade or industry affected.

"MR. WOODRUM. That is what the Taft amendment provides.

"MR. TABER. Yes; the Taft amendment requires that they must do that in order to be made use of. Now, this is clearly a direct violation of that amendment.

"MR. BROWNLEE. Of course, Mr. Taber, the Taft amendment states that he shall not use any grades not in general use, or not prescribed by any other government agency unless there is no other practical method of price control.

"MR. TABER. Or have been previously promulgated or their use lawfully required by another government agency.

"MR. BROWNLEE. That is right.

"MR. TABER. Well, those grades are not required by a government agency.

"MR. BROWNLEE. That is right, sir."

Further discussion followed, confined entirely to the proposed use of AMA grades, whether they were sanctioned under the Taft amendment, *supra*, and whether the Industry Advisory Committee of the OPA had joined in their recommendation.

The subject thus having been introduced, upon the following day a memorandum was inserted in the record entitled as follows:

"Office of Price Administration Insists on Pricing Canned Fruits and Vegetables on the Basis of Government Grades, Despite Industry Insistence Such Action is Unnecessary, Impractical and Illegal, and Despite the Objection of Practical Office of Price Administration Pricing Executives."

A reply memorandum also was inserted, under the title "Statement of the Price Administrator Concerning the Use of Government Grades in Pricing Canned Fruits and Vegetables." The memorandum restates the background above outlined, and lists four reasons for the use of AMA grades to prevent upgrading of canned goods sold.

The appropriation bill was reported to the House with the proviso inserted

as finally enacted, except that it was made applicable to commodities generally. The subject came up in the debates on the floor, where it was reiterated time and again that the practical issue involved was the use of AMA grades for pricing purposes. A specific amendment was offered to strike out the proviso, in opposition to which the following debate, as appearing at page 6175 of the Congressional Record for June 17, 1944, is especially significant:

"MR. ANDRESEN. To make myself crystal clear, let me repeat that the problem dealt with by this proviso in the bill has to do with the use of standards or specifications in pricing. For example, the OPA insists on using so-called AMA grades to control the ceiling prices for processed fruits and vegetables. These AMA grades are not in general use in the canning industry in the regular commercial selling of canned foods, which is what 'general' means. Yet, the OPA insists that they should be used, and that processors, to protect themselves, should have Government inspectors at their plants to grade goods on these AMA grades.

"I am convinced this requirement violates the intent of the so-called Taft amendment against compulsory grade labeling, and so forth, which Congress enacted last July. I definitely believe it violates section 2(b) of the price-control law because it requires changes in customary business methods. The OPA lawyers do not think so. Therefore, this proviso in the bill is necessary to again make clear the intent of Congress in this part of the Taft amendment. It will stop this imposition of grades and specifications which are not those commercially used."

Upon vote, the amendment to strike the proviso was rejected.

In the Senate, there followed a similar and perhaps even more explicit discussion. After the Senate Committee had amended the provision to cover processed fruit and vegetable prices only, a motion to strike the proviso was debated upon the basis that its intended purpose was to do away with the use of the AMA grades. It was said that the Administrator "believes it is reasonable to base prices on the AMA grades which are enforceable and which are substantially identical with the specifications on which the industry in any case will be making sales to the Government. . . . This is the decision which the Senate is now asked to overrule." The proviso was deleted by the Senate, but was restored in conference and became a part of the final enactment. While there is evidence, as you suggest, that the proviso was inserted originally merely to reemphasize and continue the effect of the Taft amendment, before the final enactment the matter seems to have been thoroughly explained and well understood.

Comptroller General's Ruling

A review of the debates and hearings leads inevitably to only one conclusion, namely, that the reported plan for the use of AMA grades had met with the disfavor of the Congress and the proviso was adopted to prevent the accomplishment of such plan. The Congress which had been officially advised that the AMA standards are not in general use must be understood to have had the plan for those standards in mind when it banned all specifications and standards *not* in general use. If —as now suggested—that objective which plainly was before the Congress would not be attained by the language then under discussion, it manifestly was an administrative duty then to advise the interested committees that even if that language were adopted, the legislative objective would administratively be deemed not to have been accomplished. Instead, the memoranda and statements submitted were directed to the merits—not questioning the sufficiency of the language to accomplish the purpose plainly sought—and upon the merits the question was determined when the proviso deleted by the Senate was restored in conference.

Limiting my conclusion to the salary expenditures in connection with price fixing, it is plain that, it being the Congressional understanding that AMA standards are not in general use, their use was intended to be prohibited.

The next question for consideration is whether the form of regulation outlined in your letter would permit such a use as was prohibited. The particular plan was not then formulated and was not, of course, considered by the Congress. In effect, the regulation undertakes, by the use of AMA standards, alone, to lay the basis for a *prima facie* case of violation, subject to the establishment, as a defense, of a showing that commercial grades, as commercially known, were complied with. If in its actual operation it would result that the packer need be unconcerned with AMA grades it might be the view that the grades were being used for administrative guidance, only, and not for actual price fixing. However, as its intended operation is understood, an initial fixing of prices by each packer upon the basis of the AMA grades thought applicable to his product is to be required. While the suggestion has been made that the packer who is furnished the definitions and specifications which comprise the AMA grades would be in a position himself to grade his goods, upon examination of a number of the specifications submitted there are noted numerous factors of considerable importance in the scoring system which—perhaps necessarily—are only loosely defined (for example, "normal flavor," "reasonably clear," and the like) and leave a wide range of possible results to the individual judgment of the grader. It may be open to question, therefore, whether a canner safely could rely upon any grading other than that of the Government inspector officially to be assigned for the purpose, unless he is to assume the risks of an open charge of violation. Except for a minor percentage of the commercial sales which are subject to continuous inspection, it is not understood that the commercial sales of canned goods now are so graded.

"As stated, the evidence is impressive that the intention of the Congress was to prohibit the use—*any* use—of AMA grades for purposes of fixing maximum prices for processed fruits and vegetables. The use now proposed may be such a limited use as might, upon full report and consideration, receive the approval of the Congress which, as you know, is still in session and doubtless stands ready to provide any needed amendment. As now written, however, I am constrained to hold that the proviso precludes any and every use of AMA grades for fixing maximum prices in connection with the processed fruits and vegetables, including the specific use proposed.

Whether the prohibition upon their use is a wise one, or whether it makes infeasible the enforcement of price regulations, I, of course, am not permitted to inquire, and my suggestion can only be that the proposed plan, with a statement of its advantages and necessities, be submitted to the Congress for its sanction.

Text of OPA Amendment

Following is the text of amendment 1 to Supplement 7 to Food Price Regulation No. 1, issued August 5 effective as of July 31. Section 11 will be found in the third column of page 5 of Supplement 7, copies of which were mailed with last week's INFORMATION LETTER. Paragraph (c) of Section 5 is in the third column of page 4 of the Supplement.

Sec. 11. *Grades and invoices.* This section applies to all sellers covered by this supplement whether the goods are packed by them or purchased by them for resale.

(a) "Grade" means the established grade as commercially understood, for example, in the case of canned peas, Standard, Extra-Standard and Fancy.

(b) "Subgrade" means a subdivision of a grade, determined in each case according to the regularly established way, during the base period, in which the particular processor reflected differences in quality (within that grade) in different selling prices for the item. Whether the processor had such a practice during the base period shall be determined from his invoices, and no processor who does not meet these conditions shall figure maximum prices for the item on the basis of subgrades.

If the particular processor's individual subgrade falls into more than one grade, as defined above, the individual subgrade shall be divided according to the commercial grades into which it falls.

(c) A person who purchases from a processor shall not be subject to any criminal penalty or civil enforcement action under the Emergency Price Control Act of 1942, as amended, in connection with the resale of any item for failure of the item to conform to the grade (and subgrade, if any) designated on the invoices, provided he can establish that he relied in good faith upon the grade designation on the invoice furnished him by the processor.

(d) On and after July 31, 1944, each processor shall furnish the purchaser, other than a government procurement agency, at or before the time of delivery, with an invoice describing the item and separately stating its grade and subgrade, if any. In addition, he shall also show the syrup or packing medium of any fruits or berries sold.

(e) Nothing in this supplement shall be construed to change any of the requirements of the Federal Food, Drug, and Cosmetic Act, or any regulation issued under it.

In the first paragraph of section 5 (c) the reference to section 11 (a) is amended to refer to Section 11 (b).

CARE URGED ON FORMS

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in the INFORMATION LETTER for July 22 and August 5, with the hope that it will clarify some apparent misunderstandings.

The subsidy program covers only *canned* vegetables. No other forms of processed products, such as frozen or dehydrated, are covered by the agreement. Under present provisions an application for subsidy may be made only on the following products: Canned tomatoes, canned tomato juice, canned green beans, canned sweet corn, and canned snap beans. The agreement provides that other commodities may be added later, and it has been announced that canned pea soup and tomato soup will be added soon. It is to be noted that at this time the program includes no provision for subsidy on tomato products except canned whole tomatoes and canned tomato juice.

In order to be eligible to receive payment a canner must be certified under the grower support program for his entire operations covering tomatoes, green peas, sweet corn, and snap beans in all his canning plants. No application for payment can be accepted if certification in any plant on tomatoes, green peas, sweet corn, or snap beans has been cancelled, until such certification is restored.

The subsidy will be paid only on civilian sales and only on those designated canned vegetables *packed by the canner between March 1, 1944, and April 30, 1945.* No subsidy rates are given in Table I for glass pack, but a supplement covering glass pack is expected to be added at an early date.

The subsidy agreement covers all eligible sales made between March 1, 1944, and April 30, 1945. For that part of the 1944 pack canned *after* March 1 and sold to civilians *prior* to the issuance of the 1944 price ceiling regulations by the Office of Price Administration, the subsidy rates are given in Table I of the agreement. This part of the program is known as the interim subsidy and the rates are in terms of cents per dozen cans, not on the raw product. On eligible sales made after the issuance of the 1944 price ceiling regulations the subsidy is to be the difference between the average of gross OPA ceiling prices for 1944 and the 1943 civilian ceiling prices. The new rates, which equal the difference between the 1944 gross maximum prices and the civilian ceilings, will be issued as a part of the new price ceiling regulations.

The full amount of subsidy will be due an eligible canner provided he has paid not less than the grower support prices for *all* quantities of the raw product purchased. Contract purchases at less than the support prices automatically void certification and thereby, voids eligibility of canner to participate in the subsidy program.

The amount of subsidy will be reduced in case open market purchases are made below the support level. For details regarding open market operations see the INFORMATION LETTERS of July 22 and August 5. It should further be noted that the "offset" in subsidy is the total amount by which open market purchases of tomatoes, green peas, sweet corn, and snap beans fall below the support levels. The total amount accrued on all vegetables at any time is deductible from any payment due to the canner even though the offset may cover several vegetables and the application for subsidy payment only one canned vegetable.

An application for payment should be made only on eligible sales and only on Exhibit A (attached to the agreement) or similar form. Such evidence as required by the Commodity Credit Corporation should be submitted with the application to avoid delay in payment. A canner may file for payment once a month and should include on any application no sales made within ten days previous to the date of filing. The request for payments should cover both the beginning and ending dates of the period so there will be no overlap.

The canner should enter in column 1, page 1, of both counterparts of the agreement the company name and business address, and in column 3 of page 3, the company name, signature of company official and his title. His signature should be attested by an official or member of the same company.

Under Section 3 (a) of the agreement, canners are required to furnish CCC with proof of his certifications with respect to designated vegetables. This proof shall be a copy of the certification issued by the State Agricultural Committee, on which a signed statement is written indicating that it is a true and correct copy covering each plant and each designated vegetable. These may be attached to copies of the agreement when submitted for CCC's execution, or with first application for payment (Form 776-1).

The few applications received for payment (Form 776-1) indicate that processors are failing to adhere strictly to instructions on reverse side of the form when filing their claim for payment. Careful study and analysis of these instructions when filling in data for claim will eliminate delay in making payment.

WFA Amends Violations Clause in Certain War Food Orders

The paragraph entitled "Violations" in each of the War Food Orders numbered 1, 2, 3, 4, 6, 7, 8, 11, 13, 15, 16, 18, 19, 21, 22, 25, 29, 30, 35, 37, 38, 39, 42, 43, 44, 45, 47, 48, 50, 51, 53, 54, 66, 67, 69, 70, 72, 76, 80, 81, 82, 86, 87, 89, 90, 92, 93, 94, 95, 96, 101, 102, and 103, is hereby amended to read as follows:

Violations. Any person who violates any provision of this order may, in accordance with the applicable procedure, be prohibited from receiving, making any deliveries of, or using the material subject to priority or allocation control pursuant to this order. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

This order shall become effective at 12:01 a. m., e. w. t., August 7, 1944.

Citrus Committees to Meet

Members of the Fresh Citrus Fruit, Processed Citrus Fruit, and Citrus Concentrates industry advisory committees are meeting August 14 and 15 with officials of the War Food Administration and the Office of Price Administration to discuss the application of pricing methods and other problems which will confront the citrus industry during the 1944-45 season.

WAR MOBILIZATION DIRECTOR BYRNES ORDERS EXTRA MANPOWER CONTROLS TO HELP CHECK LABOR TURNOVER

War Mobilization Director James F. Byrnes on August 4 isued a directive prescribing additional measures designed to check the present manpower turnover in essential war activities and to provide for penalties to assure that the new controls will be obeyed. Mr. Byrnes said, "If the present exodus from war plants continues, it is going to interfere seriously with the possibility of an early end of the war."

Mr. Byrnes emphasized in issuing the directive that the WPB discussions of reconversion to civilian production is not designed in any way to interfere with or reduce war production.

The new controls will be administered through Area Production Urgency Committees under the chairmanship of a representative from the War Production Board. These committees, which are already created in Group 1 and Group 2 labor shortage areas, will be created for all labor shortage areas (Groups 3 and 4) and will determine the relative urgency for manpower in accordance with directives from the Production Executive Committee of WPB. Similarly, the Manpower Priorities Committees now organized in Groups 1 and 2 areas under the chairmanship of the War Manpower Commission will be formed in Group 3 and Group 4 labor shortage areas and will establish manpower ceilings and manpower priorities, control referrals, and assure the proper utilization of manpower in an area in order to meet the production requirements determined by the Area Production Urgency Committee.

No new production in a Group 3 or Group 4 labor area will be permitted without the prior approval of the Area Production Urgency Committee. This Committee will not authorize that production until the War Manpower Commission has certified to the Committee that labor is available without interfering with labor recruiting in the area for the war industries.

This program will be enforced by the Chairman of the War Manpower Commission and all government agencies are directed to apply whatever sanctions are available to the Government, including allocation of materials, in order to insure compliance with determinations of WMC through its Area Manpower Priorities Committees.

The program as announced by Mr. Byrnes is essentially an extension of the West Coast manpower program to the entire country. It is expected that the WMC will soon issue regulations conforming to the Byrnes directive.

WFA is Offering to Purchase Canned Chicken; Dried Apples

The War Food Administration has announced that it will purchase approximately 837,149 pounds of canned boned chicken packed in the United States from domestically produced poultry. The offer extends to 5 p. m., EWT, August 16.

The WFA also has announced that it will receive offers from processors of dried apples produced in eastern United States. Offers will be received on or before 3 p. m., EWT, Tuesday, August 15, or on any Tuesday thereafter, until further notice.

Further information regarding both the WFA procurement of canned chicken and dried apples may be secured by communicating with the Procurement and Price Support Branch, Office of Distribution, WFA, Washington 25, D. C.

Apple Products Placed under "Adjustable Pricing" by OPA

Packed apples, dried apples and apple sauce of the 1944 pack may be sold to the Government by processors under the same "adjustable pricing" arrangement as that recently provided for several packed fruits and vegetables, the Office of Price Administration announced August 7.

This pricing order (Order 5 to Maximum Price Regulation 493), effective August 8, will permit sales and deliveries at current ceilings, subject to adjustment upward if 1944 maximum prices are higher than last year's ceilings.

As in the case of the other commodities now subject to adjustable pricing, the apple products mentioned can, under the new order, be made available to the Government immediately and these sales will not need to await issuance of the 1944 ceiling prices.

Canned Fish is Rationed Again

Canned fish is again restored to the list of rationed foods effective August 13, the Office of Price Administration has announced.

Point values for the more popular canned fish—salmon, bonito, shrimp, tuna and yellow tail—were set at six points per pound; mackerel and sardines at four points per pound; while canned oysters and miscellaneous canned fish products were given a value of two points per pound.

OPA Appoints Consumer Adviser

Esther Cole Franklin of Washington, D. C., has been appointed Consumer Relations Adviser to the Office of Price Administration to present the consumer point of view on OPA regulations and to serve as executive secretary for the OPA Consumer Advisory Committee.

Mrs. Franklin is the author of a series of booklets on national social and economic problems; among them are bulletins on "Inflation," "Social Welfare Service and the War," "Housing," "The Consumer Movement" and "Toward Post-War Adjustments."

1944 Sweet Corn Acreage

Sweet corn planted for canning in 1944 totaled 495,816 acres as compared with 533,542 acres in 1943, a decrease of 37,726 acres, according to figures compiled by the Association's Division of Statistics. These figures include the acreage planted for canning only, and do not cover that planted for freezing, dehydration or other forms of processing. The following table shows the acreage planted by States and varieties:

States	White					Golden Total
	Evergreen	Narrow Grain*	Country Gentleman	Crosby	Total	
	Acres	*Acres*	*Acres*	*Acres*	*Acres*	*Acres*
Maine, Vermont, New Hampshire	.....	.....	.....	777	777	14,611
New York	.....	.....	.....	.....	.....	24,882
Maryland	10,563	1,499	7,509	.....	19,631	22,923
Delaware	1,320	.....	.....	.....	1,320	4,403
Pennsylvania	1,905	1,262	483	250	3,900	11,056
Ohio	3,021	6,226	1,920	.....	11,167	11,781
Indiana	12,694	408	13,985	.....	27,087	17,864
Illinois	.....	2,753	21,107	.....	23,860	41,256
Wisconsin	3,171	1,242	591	.....	5,004	82,847
Minnesota	.....	.....	500	1,722	2,222	86,438
Iowa and Nebraska	15,816	14,040	1,068	.....	31,824	21,985
Other States	1,200	1,447	2,191	.....	4,838	24,110

* Includes hybrids

HAMILTON CITED BY ARMY FOR EXCEPTIONAL SERVICE

J. Howard Hamilton, canning industry executive who had been serving as a consultant to the Government, was presented with the War Department's Exceptional Service Award by Maj. Gen. Edmund B. Gregory, The Quartermaster General, on August 8.

Mr. Hamilton, who had been on loan to the Government for war service, resigned as of March 1 of this year to resume his position with the American Can Company as assistant manager of its Pacific division. He flew East to accept the award, the first to be made by the Office of The Quartermaster General. The citation reads:

"For his distinguished service to the War Department in the skillful and tactful development and direction of the canned food procurement program for the Armed Forces. Serving without compensation, he has achieved results which stand out as an example of efficient wartime procurement. (Signed) Henry L. Stimson, Secretary of War."

Mr. Hamilton is well known throughout the food industry. The 42-year-old executive was born in Illinois and gained his first experience in the canning business with his father in Waupun, Wisconsin. He then became canned food buyer for the A & P Tea Company, and finally became associated with the American Can Company.

In March 1941, at the insistence of Douglas MacKeachie (later Colonel MacKeachie) of the A & P Tea Company, who was then assistant to Donald Nelson, Mr. Hamilton became associated with the Office of Production Management, later the War Production Board.

Two years later, March, 1943, he became a consultant to the Secretary of War and was assigned to the Office of The Quartermaster General where he remained until March of this year. Mr. Hamilton had an important part in formulating the Quartermaster Corps' procurement program, particularly as it is related to canned foods.

Canners will recall that Mr. Hamilton's resignation from the War Department was announced by Brig. Gen. Carl A. Hardigg at the annual Processors' Conference this year at Chicago. The warm tribute which Gen. Hardigg paid Mr. Hamilton at that time can be found on page 8054 of LETTER No. 973.

Ralph E. Arnold Resigns

Ralph E. Arnold, Chief of the Priorities Branch, Office of Materials and Facilities, War Food Administration, has tendered his resignation effective September 2. Mr. Arnold entered the government service in January, 1942, as consultant on canned foods in the Office of Production Management. Later he was administrator of Canning Machinery Order P-115 in the War Production Board, and served as Chief of Priorities in divisions of the War Production Board and Food Distribution Administration. Mr. Arnold has not announced his future plans. During his service he became known to many canners as a hard-working, efficient administrator.

New Specifications for Export Shipping Cases Made Available

New specifications for export shipping cases are contained in an 8-page booklet issued recently by the War Food Administration and may be obtained by writing Marketing Reports Division, Office of Distribution, WFA, Room 2616 South Bldg., Washington 25, D. C., and requesting FSC-1742-E, "Export Packaging Specifications."

The revised specifications supersede those contained in FSC-1742-D and will apply to all future shipments for export, except in instances where the vendor has existing stocks of the formerly specified types of shipping containers on hand or is under contract to purchase them.

Fluorine Spray Residue Limit on Apples and Pears Proposed

The Food and Drug Administration announced in the Federal Register for August 10 a proposed regulation establishing a maximum permissible amount of fluorine as spray residue on apples and pears. The proposed regulation states "the quantity of fluorine remaining as an insecticidal residue on apples and pears is hereby limited to not more than 7 milligrams of fluorine, calculated as F, per kilogram of such fruit."

Any interested person whose appearance was filed at the time of the hearing on the proposed order may, within 30 days from the publication of the proposed order, file with the Hearing Clerk exceptions thereto.

New Truck Production Schedule

Production of 56,705 commercial trucks has been programmed for the first quarter of 1945, the War Production Board reported August 5. Programmed production for the first quarter of 1944 was 10,894 units. A total of 41,068 is scheduled for the last quarter of 1944.

CANNED FISH ALLOCATION FOR 1944-45 ANNOUNCED

Civilian Pack Expected to be Slightly Larger this Year than Last

U. S. civilians are expected to receive slightly more canned fish during the 1944-45 pack year than was allocated for the corresponding period in 1943-44, the War Food Administration said August 8 in announcing canned fish allocations for the period July 1, 1944, to June 30, 1945.

Civilians are expected to receive 365.9 million pounds or 48 per cent of the total available supply of about 762 million pounds of canned fish. This will provide a per capita consumption of about 2.8 pounds as compared with 2.5 pounds per person during the corresponding period in 1943-44.

Allocations to the U. S. military and war services are 170.7 million pounds, 22.4 per cent of the total allocation. This is almost 87 million pounds over the allocations made our armed forces last year.

Approximately 225.4 million pounds or 29.6 per cent of the canned fish allocation will be shipped to our territories, allies, liberated areas, other friendly nations, and the Red Cross.

About 43 per cent of the expected available supply of canned fish is salmon and 24 per cent pilchards, the remainder being made up of Maine sardines, Atlantic sea herring, mackerel, tuna, shrimp and other minor varieties.

The civilian per capita consumption of canned fish averaged 4.9 pounds per person from 1935 to 1939. This dropped to 3.4 pounds in 1942 and to 2.5 pounds in 1943, but is expected to go up to 2.8 this year.

Although fresh and frozen fish has not been allocated for the 1944-45 fiscal year, it is estimated that the available supply will be about 728 million pounds, slightly more than for 1943-44. Of this, civilians will receive at least 634 million pounds, or about 4.9 pounds per person.

Corbett Succeeds Waterman

Maurice A. Corbett has succeeded T. C. Waterman as head of the frozen fruit and vegetable section of the War Food Administration's Fruit and Vegetable Branch. Mr. Corbett comes to WFA from the Office of Price Administration, where he was in charge of that agency's frozen food rationing section. Mr. Waterman recently resigned from the WFA to reenter private business.

Indicated Sweet Corn Crop is 5 Per Cent above that of 1943

The August 1 indicated production of sweet corn for processing in 1944 is 1,221,200 tons as compared with 1,162,000 tons in 1943, according to the U. S. Bureau of Agricultural Economics. On August 1 a yield of 2.32 tons of sweet corn was indicated, against 2.29 tons in 1943. Prospects were generally favorable through July for yields somewhat above average in the principal producing States, except in Tennessee and in the States along the Atlantic seacoast from Delaware-Maryland northward, including the three important New England States and westward to Ohio. Dry weather was unfavorable in this area.

State	Acreage 1943 harvested	Acreage 1944 planted	Production 1943	Production 1944 indicated
	Acres	*Acres*	*Tons*	*Tons*
Maine	13,600	14,800	49,000	50,300
N. H.	490	480	1,900	1,400
Vermont	1,020	1,100	3,100	2,000
New York	24,700	28,200	56,800	70,500
Penn.	16,700	16,500	28,400	29,700
Ohio	27,600	26,100	63,500	36,500
Indiana	51,900	44,700	98,600	71,500
Illinois	72,700	68,200	181,800	163,700
Michigan	4,900	5,750	6,900	8,600
Wisconsin	70,500	82,500	169,200	214,500
Minnesota	77,400	91,000	193,500	245,700
Iowa	57,700	53,800	144,200	123,700
Nebraska	3,000	2,450	5,400	4,200
Delaware	4,800	4,400	6,200	8,800
Maryland	48,200	50,700	57,800	81,100
Tennessee	2,600	2,500	5,200	6,000
Washington	11,200	11,300	40,300	40,700
Oregon	4,700	4,800	16,400	15,800
Other States	12,800	17,100	33,800	45,900
Total	506,510	526,380	1,162,000	1,221,200

Conference on Simplification of Skids and Pallets Called

Simplification of skids and pallets for handling canned foods will be the subject of a conference called by the National Bureau of Standards for August 16, to which have been invited representatives of organized groups interested in the problem. The conference will be held at the Department of Commerce, and will be in the nature of a general discussion of the subject as the basis for such further study and action as may be found appropriate.

General adoption of skids and pallets, it has been suggested to the National Bureau of Standards, would facilitate the handling of canned foods in the various stages of distribution from manufacturer to retailer. Simplification of skids and pallets, it was further suggested, should lead to standard shipping units and standard distribution-warehouse design.

The suggested simplification program will make it necessary to consider railroad car interior dimensions; truck body interior dimensions; case tiering patterns for various sizes of cases; the fork-lift and low-lift length, reach and power of lifting devices; the existing post spacing in warehouses; wood and fiber box construction and strength; strapping methods and equipment, etc.

Snap Bean Crop Indicated as Slightly less than in 1943

The 1944 production of snap beans for processing, as indicated on August 1, is 258,800, or only about 1 per cent less than the record high 1943 production. The August 1 indicated yield is 1.45 tons per acre, as compared with 1.62 tons per acre harvested in 1943.

State	Acreage 1943 harvested	Acreage 1944 planted	Production 1943	Production 1944 indicated
	Acres	*Acres*	*Tons*	*Tons*
Maine	2,850	3,250	7,700	8,100
New York	14,000	16,100	28,000	25,800
Pennsylvania	5,400	6,200	9,700	8,100
Indiana	2,300	2,000	1,800	2,000
Michigan	8,100	8,800	13,000	12,300
Wisconsin	12,200	12,400	18,300	18,000
Delaware	2,000	2,100	1,600	1,900
Maryland	12,600	14,000	16,400	16,800
Virginia	4,600	5,000	5,100	6,000
N. Carolina	3,900	4,200	3,900	3,800
S. Carolina	4,300	4,800	3,000	3,800
Georgia	6,000	6,000	4,800	4,200
Florida	21,200	20,000	36,000	24,000
Tennessee	7,000	9,000	13,300	9,000
Mississippi	2,600	3,000	2,100	2,400
Arkansas	17,000	18,900	17,000	22,700
Louisiana	4,900	4,400	3,900	4,400
Oklahoma	6,000	13,500	4,200	12,200
Texas	7,500	8,200	12,000	13,100
Colorado	1,600	1,700	4,300	4,600
Utah	800	1,000	2,200	3,200
Washington	2,200	2,300	10,100	9,400
Oregon	4,400	4,700	29,000	27,700
California	1,130	1,100	6,800	5,000
Other States	6,040	6,390	7,700	9,700
Total	161,220	179,040	261,900	258,800

Poultry for Canning Reported

The quantity of poultry canned or used in canning during June continued at record levels, the U. S. Bureau of Agricultural Economics has just announced. The dressed-weight quantity canned or used in canning during the month totaled 11,294,000 pounds compared with 3,321,000 in June last year—an increase of 240 per cent. During the first 6 months of this year the quantity canned or used in canning totaled 72,052,000 pounds compared with 43,383,000 pounds during the same period in 1943 and 89,763,000 pounds for the entire year.

Tomato Crop about 21 Per Cent Larger than in 1943 Indicated

Production of tomatoes for processing in 1944, as indicated by August conditions, is 3,209,100 tons as compared with 2,659,100 tons in 1943, according to the U. S. Bureau of Agricultural Economics. The indicated yield is 5.3 tons per acre as compared with 4.73 tons in 1943.

State	Acreage 1943 harvested	Acreage 1944 planted	Production 1943	Production 1944 indicated
	Acres	*Acres*	*Tons*	*Tons*
New York	22,100	25,200	134,800	186,500
New Jersey	33,000	36,700	221,100	212,900
Penn.	28,600	35,400	188,800	212,400
Ohio	22,800	30,000	86,600	195,000
Indiana	95,600	109,200	382,400	567,800
Illinois	9,800	10,000	36,300	42,000
Michigan	6,000	6,600	16,200	38,300
Iowa	4,500	5,000	13,500	21,000
Missouri	15,100	15,800	24,200	37,900
Delaware	13,300	15,200	61,200	66,900
Maryland	72,200	67,100	317,700	288,500
Virginia	36,000	33,300	126,000	133,200
Kentucky	6,800	6,000	12,900	12,600
Tennessee	9,000	6,000	9,000	11,400
Arkansas	21,900	20,600	21,900	47,400
Colorado	4,800	5,900	36,000	37,200
Utah	7,900	8,100	76,600	67,200
California	112,680	130,000	800,000	910,000
Other States	33,150	39,550	93,900	120,900
Total	555,230	605,650	2,659,100	3,209,100

Sugar Allowed for Certain Frozen Fruits Used in Salads

Provisional allowances of sugar for freezing mixed fruits, fruit cocktail and fruits for salads were authorized by the Office of Price Administration, August 9.

Under Amendment 40 to Revised Ration Order 3, effective August 12, canners, frozen food companies and other fruit preserving concerns who wish to freeze these products may obtain sugar for use in processing at the rate of one pound of sugar for each five pounds of fruit.

Previously, no sugar could be obtained for use in freezing mixed fruits, fruit cocktail and fruits for salads.

Most of the 1944 pack of canned mixed fruit, fruit cocktail, and fruits for salads will be set aside for use by the Armed Services, Lend-lease, and other government agencies, OPA said. It is desirable to permit concerns wishing to freeze such fruit to obtain the sugar needed for that purpose since frozen foods do not require tin containers, and thus conserve tin, the agency added.